Secret. II-39—27,000—[illegible]

Law (General) (1926) Department.

Ord. SERIES.

G.O. No. 1414

DATED 28.4.26

[Despatch Abstract.]

Legislative Council Question

Courts - Bench First class

Mangalore - Trial of Cases - Records

1160

Council office.
17-10-25

question.

[illegible]

THE LAW (GENERAL) [illegible].

1944 Will the hon. the Law Member be pleased to refer to the answers given to question No. 130 (f) (XXIV 190) and state

(a) whether there is not such an order made by the District Magistrate to the effect that no cases under the Motor Vehicles Act should be sent to the Bench Court at Bangalore and on what grounds

(b) whether the Bench was asked their objections before any such order was passed; and

(c) whether before such general orders are passed, it is the practice to consult the Bench?

(It is in this sense that my last supplementary question on page 191 Volume XXIV proceedings should be understood. It is regretted that this was not made clear on the occasion.)

In reference to the answer given to Question (Q) 130 (f) and put at the meeting of the Council held on 19th August 1925

SPK. 22/21.11

2/

Law (General) Department.

C.No. 5716 B

Memo. 5716 B-1 Dt 21-XI-25

Legislative Council Question No 1344 - Bench courts - the first class Bench at Mangalore.

A copy of the above question is forwarded to the D.M. South Kanara for very early remarks.

2. As regards clause (a) of the question the D.M. will observe that it is the same as clause (f) of the question referred to him with this Department's Memo No. 3144 B-1 dated 29-6-25. The ~~information furnished by the Dt. Magistrate in his letter dated 21-7-25 is not complete as it does not make~~ no mention of the date of the order of his predecessor directing the stationary Sub-Magistrate, Mangalore, to retain all cases under the Motor Vehicles Act on his own file and ~~could not therefore know~~ if not stated whether the 13 cases under the Motor Vehicles Act referred to by him in answer to clause (e) of the question were tried before the issue of the order. The D.M. is now requested to ~~specify the date of the order~~ furnish these particulars. He is also requested to ~~supply the information required in~~ the other clauses of the present question.

page 1 c7 in the limited file

3. With reference to paragraph 3 of the D.M's letter dated 19-8-25, he is informed that in the absence of any delegation under section 14 (3)

page 1 c7 in the limited file

of the Code of Cr.P. a special Magistrate can be empowered only by the Local Government to take cognisance of offences.

19-11-25

20/11

V.TK
21.11.

To

21/11

The Dist. S. Canara
Mangalore
(Minutes with copy of Govt. No 1344)

L
24 NOV 1925

G.F. 30—41,000—8-9-24.

LAW (General) DEPARTMENT.

4

Z 6272 B

Received 7-DEC-1925 192 .. Registered 7-12 192 5

Subject.

Legislative Council Question No.1344 Bench Court—the I Class Bench Court at Mangalore.

Government Memorandum No.5716 H-1, dated 21st November 1925.

ENCLOSURES.
No.
Spare copies

Ref. No. 6627-C.25.

Station Camp Kasargod *Dated the* 3rd December 1925.

From (Name) G. W. Wells, Esquire, M.A., I.C.S.,

(Designation) Dt. Magistrate of South Kanara.

To The Secretary to the Government of Madras,

Law (General) Department.

Madras.

Sir,

Question No.1344 - Clause (a) - In addition to the information furnished in my report L.Dis.5402-25 dated 21st July 25 in reply to Government Memorandum No.3144 B-1 dated 29th June 1925, I have to report that the order on question was passed by my predecessor on 15th April 1925. The 13 cases referred to in answer to clause (e) were tried before the issue of the above order.

Clauses (b) & (c) - The answer to both these questions is in the negative.

Your obedient servant,

For Dt.Magistrate.

M.D'S.5/12.

Dealt with in a separate file

Extracts from letter No. L Dis. 5402-25, dated 21-7-25, From D.M., South Kanara, to the Secretary to Government, Law (General) Deptt.

-;-

(2)/13(f)

Question (f)

An order was passed by my predecessor that all charge sheets under the Motor Vehicles Act pertaining to offences occurring within the jurisdiction of the Stationary Sub Magistrate, Mangalore, should be laid ~~before~~ before the Sub Magistrate who should dispose of the cases himself. Only charge sheets in respect of petty offences under the Town Niusances and the Mackney Carriage Acts are usually laid before the Bench Court and all other cases are received on its file by transfer from other Courts. Thus the order of my predecessor only directed the Stationary Sub Magistrate to retain all the cases under the Motor Vehicles Act on his own file. The order appears to have been passed at the instance of the District Superintendent of Police who had pointed out that in this class of case the accused are supported by their rich masters who probably have great influence over the majority of the members of the Bench. It was also pointed out by the District Superintendent of Police that a similar system was in vogue in South Arcot--all the cases under the Motor Vehicles Act being tried by Sub Magistrates on their regular file and not by the Benches.

A.

Law Dept. III—S—1,000—1-12-24.

QUESTION.—No. 1344

for the meeting next of the Legislative Council ~~to be held on the~~ 1 192

SUBMITTED that two copies of this Question may be forwarded to the The Law (General) Department.

The Question has been admitted.

30/10/25

U.O. No.

3—NOV-1925

To

The Law (General) Department.

1/ Rule W.B. 1 S.R. 86149C

3/11/25

4/11

7/11 S.R. 5-716 B

16/11/25

Main file received from H.S. Drafting on 12/11/25

12-11-25

2

Law (General) Department.

C.No. 5716 B

Legislative Council - Question No. 1344 - Bench Courts - The first class Bench at Mangalore - Mr. J.A. Saldanha.

Clause (a) of the Question.

This is the same as clause (f) of the previous question at Q. It will be seen from page 4 of the notes on the top file that the Government were not able to answer this question before as in his report dated the 21st July 1925, the D.M. did not mention the date of the order of his predecessor directing the Stationary Sub-Magistrate, Mangalore to retain all cases under the Motor Vehicles Act on his own file and the Govt. could not therefore know whether the 13 cases under the Motor Vehicles Act referred to by him in answer to clause (e) of the question were tried before the issue of the order. This information may it is submitted, be called for.

Clauses (b) & (c).

The Government have no information - may be called for.

Draft memo put up.

19-11-25

20/11

S

21-11

C.No. 6272B. From the Dist. of South Kanara Ref. No. 6627-C-25 of 23

As.

Please see Dist's reply at page 4 of

2. The following draft answer is submitted

for consideration :—

(a) : yes;

(b) & (c) : The answer is in the negative.

3. As regards the latter portion of question (a) namely "on what grounds", reference is solicited to the extract from the D.M.'s letter at flag (N). Submitted for orders whether this information, contained at A of the said extract, may be given, in answer to the latter portion of question (a).

Mdm
8.12.25

SR
8-12-25

We may, perhaps, add to the above draft answer the following :—

"
"Owing to the possibility of
"such cases assuming
"importance on account
"of the support of the
"owners of vehicles.

CR
8.12.25
S.

Law (Police) Nde 5716B-2
10.12.25
SPR

We may say :-

(a) Yes; as the dt magte considered it expedient that such cases should be tried by the Salaried magistracy

(b) }
(c) } No.

DESPATCHED
11 DEC 1925

V.T.
9.12

C1 CR
9-12-25

Bench Courts.

The First-class Bench at Mangalore.

1160 Q.—Mr. J. A. SALDANHA Will the hon. the Law Member be pleased to state—

(*a*) whether in reference to the answer given to question No. 130 (*f*) at the meeting of the Council held on 19th August 1925, there has been an order made by the District Magistrate to the effect that no cases under the Motor Vehicles Act should be sent to the Bench Court at Mangalore and on what grounds;

(*b*) whether the Bench was asked their objections before any such order was passed; and

(*c*) whether before such general orders are passed, it is the practice to consult the Bench?

A.—(*a*) Yes; as the District Magistrate considered it expedient that such cases should be tried by the salaried magistracy.

(*b*) & (*c*) No.

Mr. J. A. SALDANHA:—"May I enquire on what grounds the District Magistrate considered it expedient that such cases should be tried by the salaried magistracy?"

The hon. Sir C. P. RAMASWAMI AYYAR:—"It was found that the accused in many cases were supported by their rich masters and miscarriage of justice occurred."

Mr. J. A. SALDANHA:—"Are Government aware that several acquittals took place in cases that were transferred to the salaried magistracy?"

The hon. Sir C. P. RAMASWAMI AYYAR:—"They were sent for trial and not for conviction presumably."

Mr. S. SATYAMURTI:—"With reference to clause (*b*), may I ask the reasons why the Bench was not asked to state its objections to the transfer orders?"

The hon. Sir C. P. RAMASWAMI AYYAR:—"It is not a question for the Bench. The question is whether the Bench is discharging its duties properly. It was found on this question that there were difficulties in the way."

Sriman SASIBHUSHAN RATH Mahasayo:—"Was any steps taken to substitute the existing men by better men?"

The hon. Sir C. P. RAMASWAMI AYYAR:—"Attempts were made."

Mr. J. A. SALDANHA:—"As a matter of courtesy to the Bench consisting of respectable gentlemen of the place, why was it not asked whether it had any objection to the transfer of the case?"

The hon. Sir C. P. RAMASWAMI AYYAR:—"As a matter of fact it has been found convenient not only in Mangalore but in other districts to transfer such cases from the Bench. The question arose, for instance, in South Arcot, where the system was in vogue and it was found that it would not work and all the cases under Motor Vehicles Act are now tried by sub-magistrates. These cases will for some time at all events be tried by stipendiary magistrates."

Mr. C. V. VENKATARAMANA AYYANGAR:—"Is it not a fact that the offences more serious than those under the Motor Vehicles Act are tried by the Bench Magistrates?"

The hon. Sir C. P. RAMASWAMI AYYAR:—"Very likely."

Mr. C. VENKATARAMANA AYYANGAR:—"May I enquire whether there are any special reasons why the offences under that particular Act should be excluded from their jurisdiction?"

The hon. Sir C. P. RAMASWAMI AYYAR:—"There were special reasons."

Mr. C. V. VENKATARAMANA AYYANGAR:—"Is it then possible to say whether these cases are transferred on account of the class of accused who are generally prosecuted in such cases or on account of the seriousness of the cases themselves?"

The hon. Sir C. P. RAMASWAMI AYYAR:—"Both, Sir, mainly the former."

The RAJA OF RAMNAD:—"Is it the opinion of the hon. the Law Member that the cases under the Motor Vehicles Act are disposed of more satisfactorily by stipendiary magistrates and not by honorary magistrates?"

The hon. Sir C. P. RAMASWAMI AYYAR:—"I can certainly say that of the case under reference."

Mr. S. SATYAMURTI:—"May I ask the hon. Law Member if he has come to the conclusion that this Bench is unfit to try cases under the Motor Vehicles Act, how he can contemplate with equanimity the Bench courts trying more serious cases?"

The hon. Sir C. P. RAMASWAMI AYYAR :—"We have not come to any conclusion on the general question. We are referring now only to the Bench Court at Mangalore."

Mr. S. SATYAMURTI :—'May I know why that Bench court is allowed to try more serious cases?"

The hon. Sir C. P. RAMASWAMI AYYAR :—"The same reasons do not exist."

Leg^ve. Council Question
Courts—Bench—
First class—
Mangalore—
Trial of cases—
Recorded

Law (Genl.) Dept.
Order issued. 1417 D/28.4.26.

Recorded
27.4

28/4-26

26-4-26.